

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariana Thomas	Team: Squad #13	CCRB Case #: 202101248	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/24/2021 9:00 PM	Location of Incident: 40 Precinct stationhouse	Precinct: 40	18 Mo. SOL 8/24/2022	EO SOL 8/24/2022	
Date/Time CV Reported Thu, 02/25/2021 11:46 AM	CV Reported At: Precinct	How CV Reported: Fax	Date/Time Received at CCRB Thu, 02/25/2021 11:46 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Maggiotta	17301	966683	040 PCT
2. POM Syed Ali	18081	963845	040 PCT
3. POM Ivan Cruz	25251	967022	040 PCT
4. POM Christian Johnson	19627	966649	040 PCT
5. POM Jose Pichardo	23992	967256	040 PCT
6. POM Alex Okane	01409	966247	040 PCT
7. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Yuquilima	07376	966408	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers did not obtain medical treatment for § 87(2)(b)	
B. POM Ivan Cruz	Abuse: Police Officer Ivan Cruz took a photograph of § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		
§ 87(2)(b), § 87(4-b)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

### Case Summary

On February 25, 2021, § 87(2)(b) filed this complaint in person at the 40th Precinct stationhouse on behalf of herself and her adult daughter, § 87(2)(b). It was received by the CCRB on February 25, 2021.

On February 24, 2021, at approximately 9:00 p.m. § 87(2)(b) and § 87(2)(b) two younger children whom she refused to identify, went to the 40th Precinct stationhouse in the Bronx to report an assault and to obtain medical treatment for § 87(2)(b). They spoke to Police Officer Syed Ali and Police Officer Jose Pichardo, both of the 40th Precinct, outside the stationhouse. Officers allegedly refused to provide § 87(2)(b) with medical attention (**Allegation A: Abuse of Authority, § 87(2)(g)**). Police Officer Ivan Cruz of the 40th Precinct arrived and took a photograph of § 87(2)(b) (**Allegation B: Abuse of Authority, § 87(2)(g)**). PO Cruz transported § 87(2)(b) to § 87(2)(b) Hospital. § 87(2)(b), § 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Body-worn camera (“BWC”) footage was obtained from the NYPD Legal Bureau. It is located in IAs #60 to 68 (**Board Review 02-10**) and summarized in IA #86 (**Board Review 11**). Stationhouse footage from the 40th Precinct was obtained. It is located in IAs #115-119 (**Board Review 12-16**) and summarized in IAs #86 (**Board Review 17**).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Officers did not obtain medical treatment for § 87(2)(b).**

§ 87(2)(b) testified that § 87(2)(b) had been assaulted by a cab driver, which left her with two black eyes, two lumps on her forehead, and swelling on the left side of her face (**Board Review 18**). § 87(2)(b) and § 87(2)(b) two other children walked to the 40th Precinct stationhouse, where they encountered PO Ali and PO Pichardo, identified via investigation, standing outside. § 87(2)(b) told them that § 87(2)(b) had been assaulted and that they wanted to file a report and press charges against her assailant. While waiting outside, § 87(2)(b) complained that she felt lightheaded, dizzy and had blurred vision. PO Pichardo shined his flashlight on § 87(2)(b)'s face to look at her injuries while PO Ali held his phone's light up to look at them. § 87(2)(b) requested that PO Ali and PO Pichardo obtain medical attention for § 87(2)(b). PO Ali said other officers were on their way to the stationhouse to escort § 87(2)(b) to § 87(2)(b) Hospital, and that while there, she would receive medical attention, identify her assailant, and have the officers take her report. § 87(2)(b) told PO Ali and PO Pichardo that she could call 911 or take § 87(2)(b) to the hospital herself three separate times. PO Ali said that was unnecessary since the officers who were to escort § 87(2)(b) to the hospital were almost there. After 40 minutes, the officers arrived and transported § 87(2)(b) to the hospital. Approximately two hours later, § 87(2)(b) called § 87(2)(b) and said PO Maggiotta had arrested her at the hospital and brought her back to the stationhouse without her having received medical attention. She also said the officers said they were going to call EMTs, who subsequently arrived at the stationhouse and gave § 87(2)(b) an ice pack. § 87(2)(b) called § 87(2)(b) Hospital to find out what happened and was told § 87(2)(b) was never registered there.

§ 87(2)(b)'s statement was somewhat inconsistent with § 87(2)(b)'s statement (**Board Review 19**). She said she requested medical attention for herself when she arrived at the stationhouse and that PO Ali and PO Pichardo never told § 87(2)(b) not to call for an ambulance but did say § 87(2)(b)

would be taken to the emergency room by officers who would also take her criminal complaint report. While at § 87(2)(b) Hospital, § 87(2)(b) was told she was being placed under arrest. She was handcuffed and escorted out without the opportunity to speak to any medical staff or receive any medical attention. Approximately two hours after she returned to the stationhouse from the hospital, EMS arrived, took her temperature and blood pressure, and gave her an ice pack.

PO Cruz's BWC footage begins in front of the 40<sup>th</sup> Precinct stationhouse, where he and PO Okane have just arrived (**Board Review 06**). Beginning at the 00:45 minute mark on the media player timestamp (visible at the bottom of the screen), PO Cruz speaks to § 87(2)(b) and § 87(2)(b) though there is no audio yet. PO Cruz and PO Okane transport § 87(2)(b) to § 87(2)(b) Hospital, and PO Cruz tells her that she is going to the emergency room. At 03:56, they arrive at the hospital, exit the car, and are met by PO Johnson and PO Maggiotta. PO Maggiotta asks § 87(2)(b) what happened, and she describes that her cab driver was being hostile, so she refused to pay her fare and a physical fight ensued, in which she threw something at him in self-defense. At 04:55, PO Cruz shows PO Johnson the photo he took of § 87(2)(b)'s face and tells him that § 87(2)(b) wants medical attention. At 12:40, the officers and § 87(2)(b) enter the emergency room. PO Johnson tells § 87(2)(b) that if she recognizes the cab driver, to let him know. PO Cruz and PO Maggiotta walk around the corner to the cab driver, § 87(2)(b) identified via investigation, who is laying on a hospital bed being treated for his injuries. PO Maggiotta tells § 87(2)(b) that he is under arrest and that § 87(2)(b) is being arrested too. PO Maggiotta and PO Cruz walk over to § 87(2)(b). At 19:45, PO Johnson asks § 87(2)(b) if she wants medical attention. § 87(2)(b) states that if she is going to be arrested, she wants the officers to take her where she has to go. PO Maggiotta says she can either receive medical attention at the hospital or go back to the stationhouse and wait to get medical attention there. § 87(2)(b) says she wants to go to the stationhouse and call her mother. PO Cruz says that since she does not want medical attention, they will take her back to the stationhouse. § 87(2)(b) replies, "Okay, let's go." PO Cruz and PO Maggiotta transport § 87(2)(b) back to the stationhouse, where her arrest is processed and she is searched and lodged in a holding cell.

PO Pichardo testified that earlier, § 87(2)(b) who was bleeding from his face, approached him and said he had just been assaulted (**Board Review 20**). PO Pichardo called an ambulance and § 87(2)(b) was transported to § 87(2)(b) Hospital with PO Maggiotta. Later, § 87(2)(b) and § 87(2)(b) approached PO Pichardo outside the stationhouse and said a cab driver had assaulted § 87(2)(b). PO Pichardo called PO Maggiotta and told him § 87(2)(b) was at the stationhouse and that the incident involving § 87(2)(b) might be related. PO Maggiotta said he would send a police vehicle to the stationhouse to bring § 87(2)(b) to the hospital. PO Pichardo did not remember if § 87(2)(b) appeared in need of medical attention. He did not call an ambulance for her because she did not ask him to.

PO Ali said he was not present at the stationhouse when § 87(2)(b) arrived, but his statement about what happened upon his arrival was consistent with PO Pichardo's (**Board Review 21**). Both he and PO Pichardo told § 87(2)(b) that § 87(2)(b)'s assailant was at § 87(2)(b) Hospital, and that officers would transport her there to identify him. § 87(2)(b) and § 87(2)(b) never requested medical attention. § 87(2)(b) kept asking for a criminal complaint report to be prepared and for § 87(2)(b)'s assailant to be arrested.

No Medical Treatment of Prisoner Report was prepared for § 87(2)(b) (See OMN) (**Board Review 34**). The command log entry for her arrest documents that she did not request medical attention (**Board Review 25**).

Both § 87(2)(b) and § 87(2)(b) acknowledged that § 87(2)(b) was escorted to § 87(2)(b) Hospital, both to identify her assailant and to receive medical attention, and the BWC footage shows that while at the hospital, § 87(2)(b) was offered medical attention and refused it. Additionally, § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) both acknowledged that § 87(2)(b) was treated by EMS for her injuries later on at the stationhouse. § 87(2)(b), § 87(2)(g)

**Allegation (B) Abuse of Authority: Police Officer Ivan Cruz took a photograph of § 87(2)(b)**

In PO Cruz's BWC footage, beginning at the 00:01 minute mark on the media player timestamp (visible at the bottom of the screen), though there is no audio, PO Cruz appears to be speaking to § 87(2)(b) and § 87(2)(b). An officer, who is not in the frame, shines his flashlight on § 87(2)(b)'s injuries and at 00:30, PO Cruz takes a photograph of § 87(2)(b) on an iPhone. PO Cruz, § 87(2)(b) and § 87(2)(b) continue to speak to each other, though there is no audio. At 00:53, PO Cruz and § 87(2)(b) walk towards an NYPD vehicle and drive to § 87(2)(b) Hospital.

§ 87(2)(b) testified that after she explained her injuries to the officers and was told she would be taken to the hospital, an officer took a photograph of § 87(2)(b)'s injuries with his smartphone. § 87(2)(b) could not see which officer did so because her vision was obscured due to her injuries and because she was wearing sunglasses. § 87(2)(b) heard the officer say, "Hold on, let me take a picture," saw his phone's flash go off, and heard the click of his phone's camera.

§ 87(2)(b) statement was somewhat consistent with the BWC footage and § 87(2)(b)'s statement. She said an officer may have taken photos of § 87(2)(b). She identified that officer as PO Ali (though the investigation determined it was PO Cruz). § 87(2)(b) saw a quick burst of light come from his smartphone.

PO Cruz's statement was consistent with his BWC footage (**Board Review 23**). He acknowledged that he took a photo of § 87(2)(b) on his department cell phone because § 87(2)(b) stated that she was the victim of an assault. He took the photo to document her injury. The photo, which the investigation obtained via NYPD document request, depicts profile view photo of § 87(2)(b)'s head, in which a large bruise is visible above her left eye (**Board Review 35**).

NYPD Operations Order 20 (Board Review 27), states that officers are permitted to use Department smartphones/tablets to photograph or record, "all enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing, or may be involved in criminal activity. This includes, but is not limited to, self-initiated stops and radio runs, and all incidents when members of service are taking or attempting to take an individual into custody."

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (**Board Review 28, 29**).
- PO Ali has been a member of service for three years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Pichardo has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Cruz has been a member of service for two years and has been named a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Maggiotta has been a member of service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Johnson has been a member of service for two years and has been a subject in one CCRB complaint and one allegation. § 87(2)(g)
- PO Okane has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.

#### Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 10, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**Board Review 30**).
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Investigator:	<u>                    </u>	<u>Inv. Ariana § 87(2)(b)</u>	<u>08/19/2021</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u>                    </u>	<u>IM Laura Kastner</u>	<u>08/19/2021</u>
	Signature	Print Title & Name	Date